# FOURTH ANNUAL MEETING

OF THE

# AMERICAN SOCIETY OF INTERNATIONAL LAW

NEW WILLARD HOTEL, WASHINGTON, D. C.,

*April 28–30, 1910*

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## THURSDAY, April 28, 1910

The meeting was called to order at 8 o'clock p. m. by the President of the Society, Hon. Elihu Root.

Mr. ROOT. Ladies and Gentlemen: It is a pleasure to greet you here for the fourth meeting of the American Society of International Law. I think we may congratulate ourselves on the continued prosperity and usefulness of the Society. It is rather an extraordinary thing that a society dealing with a topic ordinarily regarded as so abstruse and dry as any branch of the law, should be able, from the very beginning, to maintain itself, to put itself upon a self-supporting basis, and continue that status without interruption, as this Society has for the past four years. While we see countless examples of bankrupt publications, the journal of the Society has maintained its full standard of merit and interest, and has been regularly published without any occasion for calling upon any one for assistance, except with his pen.

There have been a number of interesting events in the domain of international law during the past year. The course of arbitration has shown greatly increased activity. It has shown a much broader scope and adherence on the part of the civilized countries of the world than we have been accustomed to find.

Perhaps the most important have been the Casablanca arbitration

between France and Germany at The Hague last May, and the settlement of the maritime boundary between Norway and Sweden, which was disposed of at The Hague last October. There has been a settlement of the boundaries between Bolivia and Peru, by arbitration of the Argentine Republic, which occurred last summer.

There are now in progress two other arbitrations at The Hague, which will be disposed of within a few weeks, to which this country is a party, the most important of which is what we speak of as the Newfoundland Fisheries Arbitration, and what is officially called the Atlantic Fisheries Arbitration between the United States and Great Britain. Beginning on the 1st of June, we are to try, before that high tribunal, the old questions upon which depend rights for which John Adams and John Jay fought like desperadoes in the negotiations for the treaty of peace in 1782, and the treaty of peace with England for which John Quincy Adams and Richard Rush contended enthusiastically, and settled, in the treaty of 1818.

There have been a number of settlements of interest to us as Americans, without arbitration. The Emery controversy with Nicaragua, which caused a great deal of trouble for a great many years, and was about to be submitted to arbitration, was, on the eve of arbitration, settled peaceably. The Alsop case with Chile has been submitted to the King of Great Britain for arbitration.

The difficulties which threatened to involve the southern portion of South America in war and caused a very threatening condition, regarding the rights over the River Plata of the countries upon either side, between Uruguay and the Argentine Republic, have been smoothed over by a specific agreement of the two Powers to continue the *status quo*.

The situation which, at one time, seemed likely to involve all Europe in war, arising over the annexation of Bosnia-Herzegovina, was fortunately averted by an agreement of the Powers interested, without submitting to arbitration and without calling a conference.

There have been a great many other arbitration treaties made during the year, and nine in the list are treaties of arbitration made by Brazil, which was one of the last American countries to come

into our scheme of arbitration, showing that she has now manifestly placed herself upon a general arbitration basis. A number of other smaller treaties have been made.

I think the most interesting thing for us Americans is the favorable reception of a communication in the form of a circular note from Mr. Knox, our Secretary of State, to the principal European Powers, with regard to the further development of the process which was advanced so much at the last Hague Conference, looking to a judicial settlement of international differences. I speak of a judicial settlement as distinct from ordinary arbitration, which too often means a compromise or settlement in a diplomatic way by the arbitrators. Mr. Knox proposed two things: one, that the prize court should be modified and that an opportunity should be afforded for nations adhering to it to modify it so far as to substitute a review *ab initio* of questions of prize in place of an appeal from and review of the decision of the court of the country concerned. That has been so generally assented to that it is quite evident the way is smoothed for the United States to become a party to that convention, unobstructed and unhindered by the difficulty which we have experienced in the way of making any tribunal superior to our Supreme Court. The difficulty that there is no constitutional power, that the treaty-making power of the United States does not, under the Constitution, extend to nullifying the provision of the Constitution that there shall be one Supreme Court, which stood like a lion in our way, I think is, happily, in the way to be solved.

The other proposition was to solve the difficulty that was found at the last Hague Conference in the constitution of a general court of arbitral justice. The difficulty was that the countries represented there could not agree upon the selection of the judges. The very large countries, many of them, were unwilling to permit the numerous small countries to have the same voice with themselves in the selection of the judges, and many of the very small countries were unwilling to admit the impeachment of their equality by submitting to having the large countries select more judges than they did, so that the Hague Conference framed a *projet* or a convention establishing a court of arbitral justice, as distinguished from an

ordinary arbitration, and recommended that it be adopted. The proposition is made that this prize court, the constitution of which is all agreed to, shall have vested in it general jurisdiction to sit a court in the hearing and determination of general questions, or that another court be organized in the same way. It is quite apparent that it is receiving favorable consideration, and we may have the highest hope of its practical fruition.

ADDRESS OF HON. ELIHU ROOT, PRESIDENT OF THE SOCIETY,

ON

## *The Basis of Protection to Citizens Residing Abroad*

I shall ask you to listen for a few minutes to some remarks regarding the protection which a nation should extend over its citizens in foreign countries. I do not select this topic because I have anything new to say about it, or because there is any real controversy among international lawyers concerning the principles involved or concerning the fundamental rules to be applied, but because there is a considerable degree of public misunderstanding about the subject, and situations are continually arising in which a failure of the public in one country or another to justly appreciate the extent and nature of international obligation leads to resentment and unfriendly feeling that ought to be avoided.

The subject has grown in importance very rapidly during recent years. The world policy of commercial exclusiveness prevailing in the early part of the last century has practically disappeared. The political relations on the one hand and the commercial and industrial relations on the other hand of different parts of the earth to each other are quite separate and distinct. It is not uncommon to find that a nation has commercial colonies which bear no political relation to her whatever, and political colonies which are industrially allied most closely to other countries.

The increase in facilities for transportation and communication — steamships and railroads and telegraphs and telephones — has set in motion vast armies of travelers who are making their way into the most remote corners of foreign countries to a degree never before known.